



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0252

Introduced 1/14/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act

225 ILCS 60/22

from Ch. 111, par. 4400-22

225 ILCS 60/45

from Ch. 111, par. 4400-45

Creates the Medical Error Reporting Law. Requires a health care facility to develop and implement a patient safety plan for the purpose of improving the health and safety of patients at the facility. Requires a health care facility to report to the Department of Public Health every serious preventable adverse incident that occurs in that facility. Provides that a health care facility shall ensure that the patient affected by a serious preventable adverse incident is informed of the serious preventable adverse incident. Creates the Health Care Practitioner Reporting Law. Requires certain persons and entities to promptly report incidents when a health care practitioner has caused injury or death to a patient while practicing within the scope of that practitioner's profession or for violation of Section 11-501 of the Illinois Vehicle Code to the appropriate licensing board having jurisdiction over the health care practitioner. Imposes criminal penalties for false reports. Creates the Health Care Consumer Information Law. Requires the Department of Public Health, in consultation with the Medical Licensing Board and the Podiatric Medical Licensing Board, to collect and maintain information concerning all physicians and podiatrists licensed in this State for the purpose of creating a profile of each physician and podiatrist. Provides that the profiles shall be made available to the public. Provides what information must be included in the profiles and what physicians may include. Provides that the Department shall contract with a public or private entity for the purpose of developing, administering, and maintaining the physician and podiatrist profiles required pursuant to the Law. Requires the Director of Public Health to report on the status of the physician and podiatrist profiles to the General Assembly. Amends the Medical Practice Act of 1987. Allows for the collection of information needed to complete the physician profiles. Changes the period of time within which certain disciplinary action proceedings concerning licensure under the Act must be commenced from 3 years to 5 years and provides that, except for actions based on grounds concerning cheating on or attempting to subvert licensing examinations, practicing under a false or an assumed name, and fraud or misrepresentation in applying for, procuring, or renewing a license, actions must be commenced within 8 years (rather than 5 years). Effective immediately.

LRB094 04119 RAS 34139 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning health care.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 5.

5 Section 5-1. Short title. This Article may be cited as the
6 Medical Error Reporting Law.

7 Section 5-5. Findings. The General Assembly finds and
8 declares that:

9 (1) adverse incidents, some of which are the result of
10 preventable errors, are inherent in all systems;

11 (2) well-designed systems have processes built in to
12 minimize the occurrence of errors, as well as to detect
13 those that do occur; they incorporate mechanisms to
14 continually improve their performance;

15 (3) to enhance patient safety, the goal is to craft a
16 health care delivery system that minimizes, to the greatest
17 extent feasible, the harm to patients that results from the
18 delivery system itself;

19 (4) an important component of a successful patient
20 safety strategy is a feedback mechanism that allows
21 detection and analysis not only of adverse incidents, but
22 also of "near-misses";

23 (5) to encourage disclosure of these incidents so that
24 they can be analyzed and used for improvement, it is
25 critical to create a non-punitive culture that focuses on
26 improving processes rather than assigning blame;

27 (6) under current Illinois law, hospitals are required
28 to investigate any unusual incidents that occur at any time
29 on a patient care unit and summarized reports of these
30 unusual incidents are to be made available to the
31 Department of Public Health;

1 (7) governing boards of hospitals are responsible for
2 the establishment of policy for the investigation of
3 unusual incidents that may occur;

4 (8) hospitals are required to maintain accurate,
5 current, and complete personnel records for each employee,
6 including current and background information sufficient to
7 justify the initial and continuing employment of the
8 individual;

9 (9) hospitals are routinely denied information about
10 prospective employees from their former employers with
11 regard to patient error or unusual incidents because these
12 former employers fear that their former employees may file
13 defamation or other civil lawsuits; and

14 (10) by establishing an environment that both mandates
15 the confidential disclosure of the most serious
16 preventable adverse incidents and encourages the
17 voluntary, anonymous and confidential disclosure of less
18 serious adverse incidents, as well as preventable
19 incidents and near-misses, the State seeks to increase the
20 amount of information on systems failures, analyze the
21 sources of these failures, and disseminate information on
22 effective practices for reducing systems failures and
23 improving the safety of patients.

24 Section 5-10. Definitions. As used in this Law:

25 "Adverse incident" means an unusual incident that is a
26 negative consequence of care that results in unintended injury
27 or illness, which may or may not have been preventable.

28 "Anonymous" means that information is presented in a form
29 and manner that prevents the identification of the person
30 filing the report.

31 "Department" means the Department of Public Health.

32 "Director" means the Director of Public Health.

33 "Incident" means a discrete, auditable, and clearly
34 defined occurrence.

35 "Health care facility" means a facility or institution,

1 whether public or private, engaged principally in providing
2 services for health maintenance organizations or in diagnosis
3 of treatment of human disease, pain, injury, deformity, or
4 physical condition, including, but not limited to, a general
5 hospital, special hospital, mental hospital, public health
6 center, diagnostic center, treatment center, rehabilitation
7 center, extended care facility, skilled nursing home, nursing
8 home, intermediate care facility, tuberculosis hospital,
9 chronic disease hospital, maternity hospital, outpatient
10 clinic, dispensary, home health care agency, residential
11 health care facility, and bioanalytical laboratory (except as
12 specifically excluded hereunder) or central services facility
13 serving one or more such institutions but excluding
14 institutions that provide healing solely by prayer and
15 excluding such bioanalytical laboratories as are independently
16 owned and operated, and are not owned, operated, managed or
17 controlled, in whole or in part, directly or indirectly by any
18 one or more health care facilities, and the predominant source
19 of business of which is not by contract with health care
20 facilities within the State.

21 "Health care professional" means an individual who, acting
22 within the scope of his or her licensure or certification,
23 provides health care services and includes, but is not limited
24 to, a physician, dentist, nurse, pharmacist, or other health
25 care professional whose professional practice is regulated
26 pursuant to Chapter 225 of the Illinois Compiled Statutes.

27 "Near-miss" means an occurrence that could have resulted in
28 an adverse incident but the adverse incident was prevented.

29 "Preventable incident" means an incident that could have
30 been anticipated and prepared against, but occurs because of an
31 error or other system failure.

32 "Serious preventable adverse incident" means an adverse
33 incident that is a preventable incident and results in death or
34 loss of a body part, or disability or loss of bodily function
35 lasting more than 7 days or still present at the time of
36 discharge from a health care facility.

1 Section 5-15. Patient safety plan.

2 (a) In accordance with the requirements established by the
3 Director by rule, a health care facility shall develop and
4 implement a patient safety plan for the purpose of improving
5 the health and safety of patients at the facility.

6 (b) The patient safety plan shall, at a minimum, include
7 all of the following:

8 (1) A patient safety committee, as prescribed by rule.

9 (2) A process for teams of facility staff, which teams
10 are comprised of personnel who are representative of the
11 facility's various disciplines and have appropriate
12 competencies, to conduct ongoing analysis and application
13 of evidence-based patient safety practices in order to
14 reduce the probability of adverse incidents resulting from
15 exposure to the health care system across a range of
16 diseases and procedures.

17 (3) A process for teams of facility staff, which teams
18 are comprised of personnel who are representative of the
19 facility's various disciplines and have appropriate
20 competencies, to conduct analyses of near-misses, with
21 particular attention to serious preventable adverse
22 incidents and adverse incidents.

23 (4) A process for the provision of ongoing patient
24 safety training for facility personnel.

25 (c) Any documents, materials, or information developed by a
26 health care facility as part of a process of self-critical
27 analysis conducted pursuant to this Section concerning
28 preventable incidents, near-misses, and adverse incidents,
29 including serious preventable adverse incidents, and any
30 document or oral statement that constitutes the disclosure
31 provided to a patient or the patient's family member or
32 guardian pursuant to subsection (b) of Section 5-20, shall not
33 be (i) subject to discovery or admissible as evidence or
34 otherwise disclosed in any civil, criminal, or administrative
35 action or proceeding or (ii) used in an adverse employment

1 action or in the evaluation of decisions made in relation to
2 accreditation, certification, credentialing, or licensing of
3 an individual, which is based on the individual's participation
4 in the development, collection, reporting, or storage of
5 information in accordance with this Section. The provisions of
6 this subsection shall not be construed to limit a health care
7 facility from taking disciplinary action against a health care
8 professional in a case in which the professional has displayed
9 recklessness, gross negligence, or willful misconduct or in
10 which there is evidence, based on other similar cases known to
11 the facility, of a pattern of significant substandard
12 performance that resulted in serious preventable adverse
13 incidents.

14 Section 5-20. Reports; use of information.

15 (a) A health care facility must report to the Department in
16 a form and manner established by the Director every serious
17 preventable adverse incident that occurs in that facility.

18 (b) A health care facility shall ensure that the patient
19 affected by a serious preventable adverse incident, or, in the
20 case of a minor or a patient who is incapacitated, the
21 patient's parent or guardian or other family member, as
22 appropriate, is informed of the serious preventable adverse
23 incident, no later than the end of the episode of care, or, if
24 discovery occurs after the end of the episode of care, in a
25 timely fashion as established by the Director by rule. If the
26 patient's physician determines, in accordance with criteria
27 established by the Director by rule, that the disclosure would
28 seriously and adversely affect the patient's health, then the
29 facility shall notify the family member, if available. In the
30 event that an adult patient is not informed of the serious
31 preventable adverse incident, the facility shall ensure that
32 the physician includes a statement in the patient's medical
33 record that provides the reason for not informing the patient
34 pursuant to this Section.

35 (c) A health care professional or other employee of a

1 health care facility is encouraged to make anonymous reports to
2 the Department in a form and manner established by the Director
3 regarding near-misses, preventable incidents, and adverse
4 incidents that are otherwise not subject to mandatory reporting
5 pursuant to subsection (a) of this Section. The Director shall
6 establish procedures for and a system to collect, store, and
7 analyze information voluntarily reported pursuant to this
8 subsection. The repository shall function as a clearinghouse
9 for trend analysis of the information collected pursuant to
10 this subsection.

11 (d) Any documents, materials, or information received by
12 the Department pursuant to the provisions of subsections (a)
13 and (c) of this Section concerning serious preventable adverse
14 incidents, near-misses, preventable incidents, and adverse
15 incidents that are otherwise not subject to mandatory reporting
16 pursuant to subsection (a) of this Section shall not be (i)
17 subject to discovery or admissible as evidence or otherwise
18 disclosed in any civil, criminal, or administrative action or
19 proceeding, (ii) considered a public record under the Freedom
20 of Information Act, or (iii) used in an adverse employment
21 action or in the evaluation of decisions made in relation to
22 accreditation, certification, credentialing, or licensing of
23 an individual, which is based on the individual's participation
24 in the development, collection, reporting, or storage of
25 information in accordance with this Section. The provisions of
26 this subsection shall not be construed to limit a health care
27 facility from taking disciplinary action against a health care
28 professional in a case in which the professional has displayed
29 recklessness, gross negligence, or willful misconduct or in
30 which there is evidence, based on other similar cases known to
31 the facility, of a pattern of significant substandard
32 performance that resulted in serious preventable adverse
33 incidents.

34 The information received by the Department may be used by
35 the Department and the Attorney General for the purposes of
36 this Law and for oversight of facilities and health care

1 professionals. The Department and the Attorney General shall
2 not use the information for any other purpose. In using the
3 information to exercise oversight, the Department and the
4 Attorney General shall place primary emphasis on ensuring
5 effective corrective action by the facility or health care
6 professional, reserving punitive enforcement or disciplinary
7 action for those cases in which the facility or the
8 professional has displayed recklessness, gross negligence, or
9 willful misconduct or in which there is evidence, based on
10 other similar cases known to the Department or the Attorney
11 General, of a pattern of significant substandard performance
12 that has the potential for or actually results in harm to
13 patients.

14 Section 5-25. Rules. The Director shall adopt any rules
15 necessary to carry out the provisions of this Article. The
16 regulations shall establish: criteria for a health care
17 facility's patient safety plan and patient safety committee;
18 the time frame and format for mandatory reporting of serious
19 preventable adverse incidents at a health care facility; the
20 types of incidents that qualify as serious preventable adverse
21 incidents; and the circumstances under which a health care
22 facility is not required to inform a patient or the patient's
23 family about a serious preventable adverse incident. In
24 establishing the criteria for reporting serious preventable
25 adverse incidents, the Director shall, to the extent feasible,
26 use criteria for these incidents that have been or are
27 developed by organizations engaged in the development of
28 nationally recognized standards.

29 Section 5-30. Report to General Assembly. The Director of
30 Public Health shall issue an annual report to the General
31 Assembly, which is also available to the general public, no
32 later than 18 months after the effective date of this Law on
33 the status of patient safety plans established by health care
34 facilities subject to this Law and information reported to the

1 Department as required by this Law or which is voluntarily
2 reported as permitted by this Law regarding serious preventable
3 adverse incidents that occur in health care facilities subject
4 to this Law.

5 Article 10.

6 Section 10-1. Short title. This Article may be cited as the
7 Health Care Practitioner Reporting Law.

8 Section 10-5. Definition. As used in this Law, "health care
9 practitioner" means any licensed professional that provides
10 health care services. "Health care practitioner" includes a
11 physician, dentist, podiatrist, advanced practice nurse,
12 physician assistant, clinical psychologist, and clinical
13 social worker.

14 Section 10-10. Reporting.

15 (a) A law enforcement agency or other government agency
16 that receives a complaint alleging that a State licensed health
17 care practitioner caused injury or death to a patient while
18 practicing within the scope of that practitioner's profession
19 shall promptly report the information contained in the
20 complaint to the appropriate licensing board having
21 jurisdiction over the health care practitioner and to the
22 patient safety committee of the health care facility where the
23 health care practitioner practices, which is established under
24 Section 5-15 of the Medical Error Reporting Law.

25 (b) An employee of a health care practitioner licensed
26 pursuant to Chapter 225 of the Illinois Compiled Statutes who,
27 as a result of information obtained in the course of his or her
28 employment, has reasonable cause to suspect that the health
29 care practitioner, in the course of his or her professional
30 duties, has caused injury or death to a patient shall promptly
31 report the information to the appropriate licensing board
32 having jurisdiction over the health care practitioner.

1 (c) An employee of a licensed health care facility who, as
2 a result of information obtained in the course of his or her
3 employment, has reasonable cause to suspect that a health care
4 practitioner licensed pursuant to Chapter 225 of the Illinois
5 Compiled Statutes, in the course of his or her professional
6 duties in the health care facility, has caused injury or death
7 to a patient shall promptly report the information to the
8 appropriate licensing board having jurisdiction over the
9 health care practitioner. An employee may not be fired or
10 terminated by his or her employer in retaliation for complying
11 with this mandatory reporting requirement.

12 (d) The name of any person who reports information
13 concerning a health care practitioner pursuant to this Section
14 shall not be disclosed without the person's consent, unless an
15 administrative or judicial proceeding results from the report.

16 (e) A person who reports information pursuant to this
17 Section or who testifies in any administrative or judicial
18 proceeding arising from the report shall have immunity from any
19 civil or criminal liability on account of the report or
20 testimony, unless the person has acted in bad faith or with
21 malicious purpose.

22 (f) Any person who falsely reports information under this
23 Law shall be guilty of a Class A misdemeanor.

24 (g) A law enforcement agency that arrests a State licensed
25 health care practitioner for a crime or for a violation of
26 Section 11-501 of the Illinois Vehicle Code shall promptly
27 report that information to the appropriate licensing board
28 having jurisdiction over the health care practitioner.

29 (h) A court in this State that convicts a State licensed
30 health care practitioner for a crime or for a violation of
31 Section 11-501 of the Illinois Vehicle Code shall promptly
32 report that information to the appropriate licensing board
33 having jurisdiction over the health care practitioner.

34 Section 10-15. Rules. The Attorney General shall adopt
35 rules pursuant to the Illinois Administrative Procedure Act to

1 carry out the purposes of this Article.

2 Article 15.

3 Section 15-1. Short title. This Article may be cited as the
4 Health Care Consumer Information Law.

5 Section 15-5. Definitions. As used in this Law:

6 "Board" means the Medical Licensing Board in the case of a
7 physician and the Podiatric Medical Licensing Board in the case
8 of a podiatrist.

9 "Department" means the Department of Public Health.

10 Section 15-10. Profiles.

11 (a) The Department of Public Health, in consultation with
12 the Medical Licensing Board and the Podiatric Medical Licensing
13 Board, shall, within 180 days after the effective date of this
14 Law and thereafter, collect and maintain information
15 concerning all physicians and podiatrists licensed in this
16 State for the purpose of creating a profile of each physician
17 and podiatrist pursuant to this Law. The profiles shall be made
18 available to the public through electronic and other
19 appropriate means, at no charge to the public. The Department
20 shall establish a toll-free telephone number for members of the
21 public to contact the Department to obtain a paper copy of a
22 physician or podiatrist profile and to make other inquiries
23 about the profiles.

24 (b) A physician or podiatrist shall be required to provide
25 the Board or Department or its designated agent with any
26 information necessary to complete the profile as provided in
27 Section 20-15 of this Law.

28 (c) The Board may request any additional information it
29 deems necessary to complete the profiles on the biennial
30 license renewal form submitted by physicians and podiatrists.

31 (d) The Board shall provide to the Department or its
32 designated agent any information required pursuant to this Law

1 that is available to the Board concerning a physician or
2 podiatrist for the purpose of creating the physician and
3 podiatrist profiles.

4 Section 15-15. Information in profile.

5 (a) The following information must be included for each
6 profile of a physician or podiatrist:

7 (1) Name of all medical schools attended and dates of
8 graduation.

9 (2) Graduate medical education, including all
10 internships, residencies, and fellowships.

11 (3) Number of years in practice.

12 (4) Number of years in practice in Illinois.

13 (5) Location of the physician's or podiatrist's office
14 practice site or sites, as applicable.

15 (6) A description of any criminal convictions for
16 felonies within the most recent 10 years. For the purposes
17 of this item, a person shall be deemed to be convicted of a
18 crime if the individual pleaded guilty or was found or
19 adjudged guilty by a court of competent jurisdiction. The
20 description of criminal convictions shall not include any
21 convictions that have been expunged.

22 (7) A description of any final Board disciplinary
23 actions within the most recent 10 years, except that any
24 such disciplinary action that is being appealed shall be
25 identified.

26 (8) A description of any final disciplinary actions by
27 appropriate licensing boards in other states within the
28 most recent 10 years, except that any such disciplinary
29 action that is being appealed shall be identified.

30 (9) A description of the revocation or involuntary
31 restriction of privileges at a health care facility for
32 reasons related to the practitioner's competence or
33 misconduct or impairment taken by a health care facility's
34 governing body or any other official of the health care
35 facility after procedural due process has been afforded;

1 the resignation from or nonrenewal of medical staff
2 membership at the health care facility for reasons related
3 to the practitioner's competence or misconduct or
4 impairment; or the restriction of privileges at a health
5 care facility taken in lieu of or in settlement of a
6 pending disciplinary case related to the practitioner's
7 competence or misconduct or impairment. Only those cases
8 that have occurred within the most recent 10 years shall be
9 included in the profile.

10 (10) All medical malpractice court judgments and all
11 medical malpractice arbitration awards in which a payment
12 has been awarded to the complaining party during the most
13 recent 5 years and all settlements of medical malpractice
14 claims in which a payment is made to the complaining party
15 within the most recent 5 years, as follows:

16 (A) Pending medical malpractice claims shall not
17 be included in the profile and information on pending
18 medical malpractice claims shall not be disclosed to
19 the public.

20 (B) A medical malpractice judgment that is being
21 appealed shall be so identified.

22 (C) The context in which the payment of a medical
23 malpractice claim occurs shall be identified by
24 categorizing the number of judgments, arbitration
25 awards, and settlements against the physician or
26 podiatrist into 3 graduated categories: average, above
27 average, and below average number of judgments,
28 arbitration awards, and settlements. These groupings
29 shall be arrived at by comparing the number of an
30 individual physician's or podiatrist's medical
31 malpractice judgments, arbitration awards, and
32 settlements to the experience of other physicians or
33 podiatrists within the same speciality.

34 (D) The following statement shall be included with
35 the information concerning medical malpractice
36 judgments, arbitration awards, and settlements:

1 "Settlement of a claim and, in particular, the dollar
2 amount of the settlement may occur for a variety of
3 reasons, which do not necessarily reflect negatively
4 on the professional competence or conduct of the
5 physician (or podiatrist). A payment in settlement of a
6 medical malpractice action or claim should not be
7 construed as creating a presumption that medical
8 malpractice has occurred."

9 (b) If requested by a physician or podiatrist, the
10 following information may be included in a physician's or
11 podiatrist's profile:

12 (1) Names of the hospitals where the physician or
13 podiatrist has privileges.

14 (2) Appointments of the physician or podiatrist to
15 medical school faculties within the most recent 10 years.

16 (3) Information regarding any nationally recognized
17 specialty board certification or accreditation by any
18 national professional organization.

19 (4) Information regarding any translating services
20 that may be available at the physician's or podiatrist's
21 office practice site or languages other than English that
22 are spoken by the physician or podiatrist.

23 (5) Information regarding whether the physician or
24 podiatrist participates in the Medicaid program or accepts
25 assignment under the Medicare program.

26 (6) Information regarding the medical insurance plans
27 in which the physician or podiatrist is a participating
28 provider.

29 (7) Information concerning the hours during which the
30 physician or podiatrist conducts his or her practice.

31 (8) Information concerning accessibility of the
32 practice site to persons with disabilities.

33 The following disclaimer shall be included with the
34 information supplied by the physician or podiatrist pursuant to
35 this subsection: "This information has been provided by the
36 physician (or podiatrist) but has not been independently

1 verified by the Medical Licensing Board or the Department of
2 Public Health."

3 If the physician or podiatrist includes information
4 regarding medical insurance plans in which the practitioner is
5 a participating provider, the following disclaimer shall be
6 included with that information: "This information may be
7 subject to change. Contact your health benefits plan to verify
8 whether the physician (or podiatrist) currently participates
9 in the plan."

10 (c) Before a profile is made available to the public, each
11 physician or podiatrist shall be provided with a copy of his or
12 her profile. The profile shall be sent to the physician or
13 podiatrist by certified mail, return receipt requested. The
14 physician or podiatrist shall be given 30 calendar days to
15 correct a factual inaccuracy that may appear in the profile and
16 return it to the Department of Public Health or its designated
17 agent; however, upon receipt of a written request that the
18 Department or its designated agent deems reasonable, the
19 physician or podiatrist may be granted an extension of up to 15
20 calendar days to correct a factual inaccuracy and return the
21 corrected profile to the Department or its designated agent.

22 (d) If new information or a change in existing information
23 is received by the Department concerning a physician or
24 podiatrist, the physician or podiatrist shall be provided with
25 a copy of the proposed revision and shall be given 30 calendar
26 days to correct a factual inaccuracy and to return the
27 corrected information to the Department or its designated
28 agent.

29 (e) The profile and any revisions thereto shall not be made
30 available to the public until after the review period provided
31 for in this Section has elapsed.

32 Section 15-20. Contract.

33 (a) The Department shall contract with a public or private
34 entity for the purpose of developing, administering, and
35 maintaining the physician and podiatrist profiles required

1 pursuant to this Law. The contract shall specify the duties and
2 responsibilities of the entity with respect to the development,
3 administration, and maintenance of the profile. The contract
4 shall specify the duties and responsibilities of the Department
5 with respect to providing the information required pursuant to
6 Section 20-15 of this Law to the entity on a regular and timely
7 basis. The contract shall specify that any identifying
8 information concerning a physician or podiatrist provided to
9 the entity by the Department, the Board, or the physician or
10 podiatrist shall be used only for the purpose of the profile.

11 (b) The Department shall monitor the work of the entity to
12 ensure that physician and podiatrist profiles are properly
13 developed and maintained pursuant to the requirements of this
14 Law.

15 Section 15-25. Report to General Assembly. The Director of
16 Public Health shall report to the General Assembly no later
17 than 18 months after the effective date of this Law on the
18 status of the physician and podiatrist profiles. The Director
19 shall also make recommendations in the report on the issue of
20 developing profiles for other licensed health care
21 professionals, including, but not limited to, dentists,
22 nurses, physician assistants, optometrists, and physical
23 therapists, and the type of information that would be
24 appropriate to include in the respective profiles for each type
25 of licensed health care professional.

26 Section 15-30. Rules. The Department shall adopt any rules
27 necessary for the enforcement of this Law.

28 Section 15-90. The Medical Practice Act of 1987 is amended
29 by changing Section 45 as follows:

30 (225 ILCS 60/45) (from Ch. 111, par. 4400-45)

31 (Section scheduled to be repealed on January 1, 2007)

32 Sec. 45. In all hearings conducted under this Act,

1 information received, pursuant to law, relating to any
2 information acquired by a physician in attending any patient in
3 a professional character, necessary to enable them
4 professionally to serve such patient, shall be deemed strictly
5 confidential and shall only be made available either as part of
6 the record of such hearing or otherwise: (a) when such record
7 is required, in its entirety, for purposes of judicial review
8 pursuant to this Act; or (b) upon the express, written consent
9 of the patient, or in the case of their death or disability, of
10 their personal representative.

11 The provisions of this Section shall not apply to
12 information that the Department of Public Health or its
13 designated agent is required to include in a physician's
14 profile pursuant to the Health Care Consumer Information Law.

15 (Source: P.A. 85-4.)

16 Article 90.

17 Section 90-5. The Medical Practice Act of 1987 is amended
18 by changing Section 22 as follows:

19 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

20 (Section scheduled to be repealed on January 1, 2007)

21 Sec. 22. Disciplinary action.

22 (A) The Department may revoke, suspend, place on
23 probationary status, or take any other disciplinary action as
24 the Department may deem proper with regard to the license or
25 visiting professor permit of any person issued under this Act
26 to practice medicine, or to treat human ailments without the
27 use of drugs and without operative surgery upon any of the
28 following grounds:

29 (1) Performance of an elective abortion in any place,
30 locale, facility, or institution other than:

31 (a) a facility licensed pursuant to the Ambulatory
32 Surgical Treatment Center Act;

33 (b) an institution licensed under the Hospital

1 Licensing Act; or

2 (c) an ambulatory surgical treatment center or
3 hospitalization or care facility maintained by the
4 State or any agency thereof, where such department or
5 agency has authority under law to establish and enforce
6 standards for the ambulatory surgical treatment
7 centers, hospitalization, or care facilities under its
8 management and control; or

9 (d) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by the
11 Federal Government; or

12 (e) ambulatory surgical treatment centers,
13 hospitalization or care facilities maintained by any
14 university or college established under the laws of
15 this State and supported principally by public funds
16 raised by taxation.

17 (2) Performance of an abortion procedure in a wilful
18 and wanton manner on a woman who was not pregnant at the
19 time the abortion procedure was performed.

20 (3) The conviction of a felony in this or any other
21 jurisdiction, except as otherwise provided in subsection B
22 of this Section, whether or not related to practice under
23 this Act, or the entry of a guilty or nolo contendere plea
24 to a felony charge.

25 (4) Gross negligence in practice under this Act.

26 (5) Engaging in dishonorable, unethical or
27 unprofessional conduct of a character likely to deceive,
28 defraud or harm the public.

29 (6) Obtaining any fee by fraud, deceit, or
30 misrepresentation.

31 (7) Habitual or excessive use or abuse of drugs defined
32 in law as controlled substances, of alcohol, or of any
33 other substances which results in the inability to practice
34 with reasonable judgment, skill or safety.

35 (8) Practicing under a false or, except as provided by
36 law, an assumed name.

1 (9) Fraud or misrepresentation in applying for, or
2 procuring, a license under this Act or in connection with
3 applying for renewal of a license under this Act.

4 (10) Making a false or misleading statement regarding
5 their skill or the efficacy or value of the medicine,
6 treatment, or remedy prescribed by them at their direction
7 in the treatment of any disease or other condition of the
8 body or mind.

9 (11) Allowing another person or organization to use
10 their license, procured under this Act, to practice.

11 (12) Disciplinary action of another state or
12 jurisdiction against a license or other authorization to
13 practice as a medical doctor, doctor of osteopathy, doctor
14 of osteopathic medicine or doctor of chiropractic, a
15 certified copy of the record of the action taken by the
16 other state or jurisdiction being prima facie evidence
17 thereof.

18 (13) Violation of any provision of this Act or of the
19 Medical Practice Act prior to the repeal of that Act, or
20 violation of the rules, or a final administrative action of
21 the Director, after consideration of the recommendation of
22 the Disciplinary Board.

23 (14) Dividing with anyone other than physicians with
24 whom the licensee practices in a partnership, Professional
25 Association, limited liability company, or Medical or
26 Professional Corporation any fee, commission, rebate or
27 other form of compensation for any professional services
28 not actually and personally rendered. Nothing contained in
29 this subsection prohibits persons holding valid and
30 current licenses under this Act from practicing medicine in
31 partnership under a partnership agreement, including a
32 limited liability partnership, in a limited liability
33 company under the Limited Liability Company Act, in a
34 corporation authorized by the Medical Corporation Act, as
35 an association authorized by the Professional Association
36 Act, or in a corporation under the Professional Corporation

1 Act or from pooling, sharing, dividing or apportioning the
2 fees and monies received by them or by the partnership,
3 corporation or association in accordance with the
4 partnership agreement or the policies of the Board of
5 Directors of the corporation or association. Nothing
6 contained in this subsection prohibits 2 or more
7 corporations authorized by the Medical Corporation Act,
8 from forming a partnership or joint venture of such
9 corporations, and providing medical, surgical and
10 scientific research and knowledge by employees of these
11 corporations if such employees are licensed under this Act,
12 or from pooling, sharing, dividing, or apportioning the
13 fees and monies received by the partnership or joint
14 venture in accordance with the partnership or joint venture
15 agreement. Nothing contained in this subsection shall
16 abrogate the right of 2 or more persons, holding valid and
17 current licenses under this Act, to each receive adequate
18 compensation for concurrently rendering professional
19 services to a patient and divide a fee; provided, the
20 patient has full knowledge of the division, and, provided,
21 that the division is made in proportion to the services
22 performed and responsibility assumed by each.

23 (15) A finding by the Medical Disciplinary Board that
24 the registrant after having his or her license placed on
25 probationary status or subjected to conditions or
26 restrictions violated the terms of the probation or failed
27 to comply with such terms or conditions.

28 (16) Abandonment of a patient.

29 (17) Prescribing, selling, administering,
30 distributing, giving or self-administering any drug
31 classified as a controlled substance (designated product)
32 or narcotic for other than medically accepted therapeutic
33 purposes.

34 (18) Promotion of the sale of drugs, devices,
35 appliances or goods provided for a patient in such manner
36 as to exploit the patient for financial gain of the

1 physician.

2 (19) Offering, undertaking or agreeing to cure or treat
3 disease by a secret method, procedure, treatment or
4 medicine, or the treating, operating or prescribing for any
5 human condition by a method, means or procedure which the
6 licensee refuses to divulge upon demand of the Department.

7 (20) Immoral conduct in the commission of any act
8 including, but not limited to, commission of an act of
9 sexual misconduct related to the licensee's practice.

10 (21) Wilfully making or filing false records or reports
11 in his or her practice as a physician, including, but not
12 limited to, false records to support claims against the
13 medical assistance program of the Department of Public Aid
14 under the Illinois Public Aid Code.

15 (22) Wilful omission to file or record, or wilfully
16 impeding the filing or recording, or inducing another
17 person to omit to file or record, medical reports as
18 required by law, or wilfully failing to report an instance
19 of suspected abuse or neglect as required by law.

20 (23) Being named as a perpetrator in an indicated
21 report by the Department of Children and Family Services
22 under the Abused and Neglected Child Reporting Act, and
23 upon proof by clear and convincing evidence that the
24 licensee has caused a child to be an abused child or
25 neglected child as defined in the Abused and Neglected
26 Child Reporting Act.

27 (24) Solicitation of professional patronage by any
28 corporation, agents or persons, or profiting from those
29 representing themselves to be agents of the licensee.

30 (25) Gross and wilful and continued overcharging for
31 professional services, including filing false statements
32 for collection of fees for which services are not rendered,
33 including, but not limited to, filing such false statements
34 for collection of monies for services not rendered from the
35 medical assistance program of the Department of Public Aid
36 under the Illinois Public Aid Code.

1 (26) A pattern of practice or other behavior which
2 demonstrates incapacity or incompetence to practice under
3 this Act.

4 (27) Mental illness or disability which results in the
5 inability to practice under this Act with reasonable
6 judgment, skill or safety.

7 (28) Physical illness, including, but not limited to,
8 deterioration through the aging process, or loss of motor
9 skill which results in a physician's inability to practice
10 under this Act with reasonable judgment, skill or safety.

11 (29) Cheating on or attempt to subvert the licensing
12 examinations administered under this Act.

13 (30) Wilfully or negligently violating the
14 confidentiality between physician and patient except as
15 required by law.

16 (31) The use of any false, fraudulent, or deceptive
17 statement in any document connected with practice under
18 this Act.

19 (32) Aiding and abetting an individual not licensed
20 under this Act in the practice of a profession licensed
21 under this Act.

22 (33) Violating state or federal laws or regulations
23 relating to controlled substances.

24 (34) Failure to report to the Department any adverse
25 final action taken against them by another licensing
26 jurisdiction (any other state or any territory of the
27 United States or any foreign state or country), by any peer
28 review body, by any health care institution, by any
29 professional society or association related to practice
30 under this Act, by any governmental agency, by any law
31 enforcement agency, or by any court for acts or conduct
32 similar to acts or conduct which would constitute grounds
33 for action as defined in this Section.

34 (35) Failure to report to the Department surrender of a
35 license or authorization to practice as a medical doctor, a
36 doctor of osteopathy, a doctor of osteopathic medicine, or

1 doctor of chiropractic in another state or jurisdiction, or
2 surrender of membership on any medical staff or in any
3 medical or professional association or society, while
4 under disciplinary investigation by any of those
5 authorities or bodies, for acts or conduct similar to acts
6 or conduct which would constitute grounds for action as
7 defined in this Section.

8 (36) Failure to report to the Department any adverse
9 judgment, settlement, or award arising from a liability
10 claim related to acts or conduct similar to acts or conduct
11 which would constitute grounds for action as defined in
12 this Section.

13 (37) Failure to transfer copies of medical records as
14 required by law.

15 (38) Failure to furnish the Department, its
16 investigators or representatives, relevant information,
17 legally requested by the Department after consultation
18 with the Chief Medical Coordinator or the Deputy Medical
19 Coordinator.

20 (39) Violating the Health Care Worker Self-Referral
21 Act.

22 (40) Willful failure to provide notice when notice is
23 required under the Parental Notice of Abortion Act of 1995.

24 (41) Failure to establish and maintain records of
25 patient care and treatment as required by this law.

26 (42) Entering into an excessive number of written
27 collaborative agreements with licensed advanced practice
28 nurses resulting in an inability to adequately collaborate
29 and provide medical direction.

30 (43) Repeated failure to adequately collaborate with
31 or provide medical direction to a licensed advanced
32 practice nurse.

33 All proceedings to suspend, revoke, place on probationary
34 status, or take any other disciplinary action as the Department
35 may deem proper, with regard to a license on any of the
36 foregoing grounds, must be commenced within 5 ~~3~~ years next

1 after receipt by the Department of a complaint alleging the
2 commission of or notice of the conviction order for any of the
3 acts described herein. Except for the grounds numbered (8), (9)
4 and (29), no action shall be commenced more than 8 ~~5~~ years
5 after the date of the incident or act alleged to have violated
6 this Section. In the event of the settlement of any claim or
7 cause of action in favor of the claimant or the reduction to
8 final judgment of any civil action in favor of the plaintiff,
9 such claim, cause of action or civil action being grounded on
10 the allegation that a person licensed under this Act was
11 negligent in providing care, the Department shall have an
12 additional period of one year from the date of notification to
13 the Department under Section 23 of this Act of such settlement
14 or final judgment in which to investigate and commence formal
15 disciplinary proceedings under Section 36 of this Act, except
16 as otherwise provided by law. The time during which the holder
17 of the license was outside the State of Illinois shall not be
18 included within any period of time limiting the commencement of
19 disciplinary action by the Department.

20 The entry of an order or judgment by any circuit court
21 establishing that any person holding a license under this Act
22 is a person in need of mental treatment operates as a
23 suspension of that license. That person may resume their
24 practice only upon the entry of a Departmental order based upon
25 a finding by the Medical Disciplinary Board that they have been
26 determined to be recovered from mental illness by the court and
27 upon the Disciplinary Board's recommendation that they be
28 permitted to resume their practice.

29 The Department may refuse to issue or take disciplinary
30 action concerning the license of any person who fails to file a
31 return, or to pay the tax, penalty or interest shown in a filed
32 return, or to pay any final assessment of tax, penalty or
33 interest, as required by any tax Act administered by the
34 Illinois Department of Revenue, until such time as the
35 requirements of any such tax Act are satisfied as determined by
36 the Illinois Department of Revenue.

1 The Department, upon the recommendation of the
2 Disciplinary Board, shall adopt rules which set forth standards
3 to be used in determining:

4 (a) when a person will be deemed sufficiently
5 rehabilitated to warrant the public trust;

6 (b) what constitutes dishonorable, unethical or
7 unprofessional conduct of a character likely to deceive,
8 defraud, or harm the public;

9 (c) what constitutes immoral conduct in the commission
10 of any act, including, but not limited to, commission of an
11 act of sexual misconduct related to the licensee's
12 practice; and

13 (d) what constitutes gross negligence in the practice
14 of medicine.

15 However, no such rule shall be admissible into evidence in
16 any civil action except for review of a licensing or other
17 disciplinary action under this Act.

18 In enforcing this Section, the Medical Disciplinary Board,
19 upon a showing of a possible violation, may compel any
20 individual licensed to practice under this Act, or who has
21 applied for licensure or a permit pursuant to this Act, to
22 submit to a mental or physical examination, or both, as
23 required by and at the expense of the Department. The examining
24 physician or physicians shall be those specifically designated
25 by the Disciplinary Board. The Medical Disciplinary Board or
26 the Department may order the examining physician to present
27 testimony concerning this mental or physical examination of the
28 licensee or applicant. No information shall be excluded by
29 reason of any common law or statutory privilege relating to
30 communication between the licensee or applicant and the
31 examining physician. The individual to be examined may have, at
32 his or her own expense, another physician of his or her choice
33 present during all aspects of the examination. Failure of any
34 individual to submit to mental or physical examination, when
35 directed, shall be grounds for suspension of his or her license
36 until such time as the individual submits to the examination if

1 the Disciplinary Board finds, after notice and hearing, that
2 the refusal to submit to the examination was without reasonable
3 cause. If the Disciplinary Board finds a physician unable to
4 practice because of the reasons set forth in this Section, the
5 Disciplinary Board shall require such physician to submit to
6 care, counseling, or treatment by physicians approved or
7 designated by the Disciplinary Board, as a condition for
8 continued, reinstated, or renewed licensure to practice. Any
9 physician, whose license was granted pursuant to Sections 9,
10 17, or 19 of this Act, or, continued, reinstated, renewed,
11 disciplined or supervised, subject to such terms, conditions or
12 restrictions who shall fail to comply with such terms,
13 conditions or restrictions, or to complete a required program
14 of care, counseling, or treatment, as determined by the Chief
15 Medical Coordinator or Deputy Medical Coordinators, shall be
16 referred to the Director for a determination as to whether the
17 licensee shall have their license suspended immediately,
18 pending a hearing by the Disciplinary Board. In instances in
19 which the Director immediately suspends a license under this
20 Section, a hearing upon such person's license must be convened
21 by the Disciplinary Board within 15 days after such suspension
22 and completed without appreciable delay. The Disciplinary
23 Board shall have the authority to review the subject
24 physician's record of treatment and counseling regarding the
25 impairment, to the extent permitted by applicable federal
26 statutes and regulations safeguarding the confidentiality of
27 medical records.

28 An individual licensed under this Act, affected under this
29 Section, shall be afforded an opportunity to demonstrate to the
30 Disciplinary Board that they can resume practice in compliance
31 with acceptable and prevailing standards under the provisions
32 of their license.

33 The Department may promulgate rules for the imposition of
34 fines in disciplinary cases, not to exceed \$5,000 for each
35 violation of this Act. Fines may be imposed in conjunction with
36 other forms of disciplinary action, but shall not be the

1 exclusive disposition of any disciplinary action arising out of
2 conduct resulting in death or injury to a patient. Any funds
3 collected from such fines shall be deposited in the Medical
4 Disciplinary Fund.

5 (B) The Department shall revoke the license or visiting
6 permit of any person issued under this Act to practice medicine
7 or to treat human ailments without the use of drugs and without
8 operative surgery, who has been convicted a second time of
9 committing any felony under the Illinois Controlled Substances
10 Act, or who has been convicted a second time of committing a
11 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
12 Public Aid Code. A person whose license or visiting permit is
13 revoked under this subsection B of Section 22 of this Act shall
14 be prohibited from practicing medicine or treating human
15 ailments without the use of drugs and without operative
16 surgery.

17 (C) The Medical Disciplinary Board shall recommend to the
18 Department civil penalties and any other appropriate
19 discipline in disciplinary cases when the Board finds that a
20 physician willfully performed an abortion with actual
21 knowledge that the person upon whom the abortion has been
22 performed is a minor or an incompetent person without notice as
23 required under the Parental Notice of Abortion Act of 1995.
24 Upon the Board's recommendation, the Department shall impose,
25 for the first violation, a civil penalty of \$1,000 and for a
26 second or subsequent violation, a civil penalty of \$5,000.

27 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,
28 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

29 Article 99.

30 Section 99-1. Effective date. This Act takes effect upon
31 becoming law.